



CONSERVATION COMMISSION

14 FOREST ROAD

ACTON, MASSACHUSETTS 01720

TOWN OF ACTON

CONSERVATION COMMISSION

AGENDA

FOR AUGUST 6, 1986

AT TOWN HALL 8:00 P.M.

1. Minutes
 - July 16
 - July 16 (Executive Session)
2. Business
 - Organization of Commission
3. Reports
 - Dimare Land Purchase
 - Audobon Hill
 - Oversight Session with Selectmen
 - Suggestions from George Charter
4. Wetland Protection
 - 8:15 Lot 106 Tenney Circle
 - 156 Central St.
 - 46-70 Nagog Park

 - Certificate of Compliance Lot 37B
 - Lot 35B

 - Extension Permit - 44 Great Road, Mobil Oil
5. Visitors
 - 8:30 Mass Aquatic Management
6. Correspondences
 - Job Description - Town Manager's Office
 - Wetlands Program Policy 86-1 - D.E.Q.E.
 - Appointment Regional Director - D.E.Q.E.
7. Expenses
 - Approval - Murphy & Snyder - stationary 84.80
 - Resource Education Institute - Seminar fee 175.00

 - Consent - Pitney Bowes - quarterly meter rental (1/8) 12.09
 - Doug Halley - mileage 14.00
8. Meetings

 - August 13 - Bylaw Review
 - August 18 - Town Meeting
 - August 20 - Regular Meeting
 - August 26 - Groundwater Protection - Selectmen



CONSERVATION COMMISSION
14 FOREST ROAD
ACTON, MASSACHUSETTS 01720

TOWN OF ACTON
CONSERVATION COMMISSION
MINUTES FOR AUGUST 6, 1986 MEETING

Members Present: Carol Place, Bob Young, Cindy Torkelsen, Mike Graesser
(8:15), Julie McCarthy (8:45)

Associate Members: Jim McGraw

Conservation Administrator: Doug Halley

Recording Secretary: Debra Luszczynski

Others: Dr. Logan, Ed Himmel, Doug Liston, Carl Page, Amy Page

8:04 Meeting called to order. Ms. Place chaired the meeting in place of Mr. Dow. The Minutes of the July 16 meeting were discussed and there were several corrections to be made. The Minutes will be corrected, distributed and placed on the agenda for August 20. Due to the Executive Session Minutes of July 16 being distributed at the meeting, the Commission will review, revise, if necessary, and discuss at the meeting of August 20 also.

8:08 Correspondences - Dimare Land Purchase

Mr. Halley stated that the Board of Selectmen have decided not to have the Special Town Meeting scheduled for August 18. They felt that there wasn't enough time to prepare the necessary warrant for the Town Meeting. The Town is still negotiating with Dr. Dimare and Mr. Fleming. Mr. Halley stated that a PCRC is the most likely method of development that will be done. There are several factors involved that if the Commission wished to discuss, an Executive Session would be necessary. The Dimare Land Purchase Committee is to meet next Monday to discuss all of the 61 and 61A property. There are close to 1000 acres with restrictions on the land should it ever become available on the market. Mr. Halley presented a map of the entire town with each section of land documented as to whether it was Conservation, wetland, forestry, 61 or 61A or if it had any deed restrictions on it.

Ms. Torkelsen stated that it was very frustrating for the Town to become excited about a possible land purchase and then have it fall apart without the Town really deciding on it.

Dr. Logan asked what the Audobon Hill/Veenstra property was considered as it was not presented on the map.

Mr. Halley stated that at one time the land was under a forestry restriction, but that it no longer is.

Mr. Young stated that Finance appeared to be in favor of the purchase but that the risk on the Dimare land was too great.

8:15 Determination of Applicability - 46-70 Nagog Park

Doug Liston of LEA Engineering presented the project to the Commission. The project is a new building with a parking lot. There will be a retention basin on the land. The plan did not show the parking area.

Ms. Place asked if any wetlands were mapped by IEP.

Mr. Halley stated that the work area has a pre-emergent wetland and is a mucky area. There are no wetland vegetation species present and the area does not meet wetland specifications.

Ms. Torkelsen asked if there would be development in the emergent wetland, such as filling it in. Her concern was that it would be filled in and therefore never have a chance to establish itself.

Mr. Liston stated that there would be some filling in, but there would be 2 retention basins established which would accelerate the wetland rather than diminish it.

Mr. Graesser made a motion that since there was no actual wetland, this area did not fall under the jurisdiction of the Commission and that it be voted as a negative one.

Ms. Place seconded it.

Mr. Liston stated that it was his intent to cooperate with the Commission regarding the area and he wanted to be prudent regarding the development of the land.

The motion passed with 3 for and 1 abstention.

156 Central St.

Mr. Halley stated that the project is a furnace room to be built within 100' of the wetland. He stated that the property has been previously cited 2-3 times for work being done within 100' of the wetland. The furnace is currently under the house in a crawl space. A new furnace must be installed because the brook behind the house floods yearly. The furnace room will be built on a platform. The Engineering Department has checked the area and the work area is 1/10 of a foot above the flood plain.

Ms. Torkelsen made a motion that this is under the both the State and local jurisdiction but the Commission has found the work will not cause an impact on the wetland. Her motion stated that it should be voted a negative 3 under the State and a 1 under the Town.

Mr. Young seconded the motion.

The motion passed unanimously.

8:40 Visitors - Mass Aquatic Management - Carl Page and Amy Page

Ms. Page stated that Mass. Aquatic Management's job was to harvest aquatic weeds and vegetation. The task of harvesting the weeds is a maintenance solution but not a permanent one because weeds do grow back. Due to the overgrown nature of Ice House Pond, this would be a prime candidate for their services. The pond is only 6' deep in the middle due to the silting that is occurring. The Town has discussed dredging the pond due to its present state. The process that Mass Aquatic uses is a conveyor on a barge pulls the weeds from the water and the weeds are then offloaded. By cutting the weeds and not removing them from the water, the weeds grow back quickly and the silting effect is still present. Weeds are so prevalent because daily living pours large amounts of nutrients into the ponds.

Ms. Torkelsen stated that Ice House Pond is highly stressed and asked if this fell under the Commission's jurisdiction.

Mr. Halley stated that not under the State Act but perhaps under the Town act.

Ms. Torkelsen asked what the price for doing Ice House Pond would be.

Mr. Page replied that he could only give a rough estimate now. Their harvester is having a new head installed on it which will be faster than the present one they have. He estimated that it would take 7 days and the cost is \$500.00/day.

Ms. Torkelsen stated that the pond is under the control of the Board of Selectmen and asked how close to the shore the weeding was done.

Ms. Page stated that the weeding is done as close to shore as possible and can be done in as little as 1' of water. The pond has been surveyed by the company and the flow of the pond is very distorted. The mainstream of the pond flows through the center only.

Ms. Torkelsen stated that the growth of the weeds in the pond is phenomenal and the fish habitat is worse in the pond.

Mr. Halley stated that the Commission's job is to protect the wetlands from natural occurrences of nature and unnatural occurrences of humans.

Mr. McGraw asked what is done with the weeds that are offloaded.

Ms. Page stated that she has spoken with Dean Charter, the Director of Municipal Properties and has surveyed the pond with him. He has stated that the Town would use a Town dump truck to haul the weeds from the site.

Mr. Graesser, consulting the State Wetlands Act, and quoting chapter and verse, stated that under State 1053.4, Mass Aquatic would have to file for an Order of Conditions and the Commission would be required to hold a hearing.

Mr. Halley stated since the pond is under the control of the Board of Selectmen, the Town would make the filing and that if it were decided to do this weed control process, the proper papers would be filed. At this point, this was an informational visit only.

Ms. Place thanked Mr. Page and Ms. Page for appearing before the Commission.

8:57 Wetland Protection - Lot 106 Tenney Circle

Mr. Halley stated that this is the last building lot in the project. There is regrading involved and a runoff trench will bisect the lot. The trench will keep siltation out of the wetland and will be used instead of haybales. He stated that the trench is an alternative method. The trench will be filled and seeded.

Ms. Torkelsen asked if the area 25' from the trench could be left natural.

Mr. Halley stated that the builder will not put in loam. There are weeds and high grass growing around the pond but no wetland vegetation. The pond is more of a retention basin. The septic system is 85' from the wetland.

Ms. Torkelsen made a motion that a negative 3 and 1 be voted.

Mr. Young seconded the motion.

Mr. Graesser stated that under the Town act, perhaps a requirement could be passed that mowing of grass could not occur to the edge of the pond.

Ms. Place stated that a policy could be incorporated to leave a buffer zone between the wetland and the property.

Mr. Young stated that at least during construction a buffer zone should exist.

Mr. Halley stated that currently the Commission is handling each case individually and therefore consistency is a problem.

Ms. Place stated that there is a concern that any chemicals placed on the lawn might runoff into the pond.

Mr. Halley stated that the pond would be giving flood not pollution control.

Ms. Torkelsen stated that there is some filtration and if a policy is to be established, it should be done in the bylaw rewrite.

Mr. Graesser stated that this would be important for the matter of consistency.

Ms. Place asked if a definite distance from the edge of the disturbance to the property line could be established.

Mr. Halley stated that 30'-35' would be a reasonable distance.

Mr. Graesser made a motion to amend the original motion to restrict grassing beyond the property line and that the vote be a negative 3 and 2.

Ms. Place seconded the motion.

Ms. Torkelsen stated that an amended motion is not necessary because a property owner can't develop onto another person's property.

The motion did not pass - 2 ayes, 3 nays.

Ms. Torkelsen made a motion that the original motion of negative 3 and 1 be accepted.

Mr. Young seconded the motion.

The motion passed - 4 ayes and 1 nay.

Certificate of Completion - Lot 37B (3 Kate Dr.), Lot 35B (85-166 - 16 Sawmill Road) - Mr. Halley has inspected the lots. The lots are within 100' of the wetland and all landscaping has been completed.

Ms. Torkelsen made a motion to accept the certificates of completion.

Mr. Young seconded the motion.

The motion passed unanimously.

Extension Permit - 44 Great Road

Mr. Halley stated that work had not yet been started on the project.

Ms. Torkelsen moved that a 1 year extension be granted.

Mr. Young seconded the motion.

Mr. Graesser, quoting the State Wetland Act Section 1005.8B.1, stated that an extension can be granted due to a failure to start work due to an unavoidable delay. He asked Mr. Halley the exact reason why work had not started.

Ms. Torkelsen stated that to be consistent with other extension, the Commission should know why the project has not yet been started.

Mr. Halley stated that he did not know the exact reason why work has not been started. He asked if that would change the original order.

Mr. Young stated that it would not change the original order.

Mr. Graesser asked how many extensions had been granted. He requested that Mr. Halley bring the entire file for each property on the agenda to the meetings in the future.

Mr. Halley stated that he would do as the Commission requests and this request for an extension was the first one.

The motion passed - 3 ayes, 1 nay and 1 abstention (Mr. Graesser).

8:37 Reports - Audobon Hill

Mr. Halley stated that Town Counsel has recommended that all 4 parcels should be offered to the Conservation Commission. Mr. Kadison will submit an offer for all 4 parcels.

Dr. Logan asked if the Conservation Commission is in favor of Town Counsel's opinion.

Ms. Place stated that Town Counsel offers expert opinion and the Town boards generally agree with that opinion because it is a requested opinion. If the boards disagree with an opinion, it releases the Town.

Dr. Logan asked if the Commission could say that they should be offered only one parcel.

Mr. Halley stated that the Commission has no control over the offer or the presenting of the offer. Mr. Kadison is in control. The Town can only act on what is offered.

Dr. Logan asked for a copy of the covenant in the deed that offers the Commission the parcels. He further stated that if the Town is offered the 4 parcels, a lawsuit will probably be initiated against the Town for accepting it.

Mr. Halley stated that the Town has not been offered anything yet. Until the offer is made to the Town, it is still hearsay. As far as a lawsuit is concerned, any disagreement should be with the seller (Mr. Veenstra) and/or his agent (Mr. Kadison). The Town can only act on what is offered.

Dr. Logan stated that the opinion of Town Counsel is contestable.

Mr. Graesser stated that Town Counsel has advised the Town and if one parcel is offered, the Town can challenge that based on the opinion of Town Counsel.

Dr. Logan stated that the court has ruled that the first right of refusal is on whatever is offered. He stated that he wants to preserve the land as it is with no real development on it. He added that he would like the Town to buy the parcel and that he would do everything in his power to preserve the land. He stated that he is not a partner of Mr. Feinberg as was stated at the last meeting.

Mr. Halley stated that the Town needs legislative action to sell any property that is Town owned such as the houses on the property, or individual lots. The State usually does not challenge that decision.

If the Commission decides to pursue the purchase of the property, a Town Meeting would be held in the 30 day period. The Town is capable of arranging a Special Town Meeting in that time, so although time is of the essence in this matter, it can be done.

Dr. Logan stated the terms of the offer to Mr. Feinberg and his associates states that a \$150,000 down payment be made. The balance of \$375,000 is to be financed by the seller and be paid back when the developed property is sold. The seller will hold the mortgage on the property.

Ms. Place thanked Dr. Logan for his candidness and for enlightening the Commission on some of the finer points of the sale.

Reports - Oversight Session with Selectmen

Mr. Halley reported to the Commission on the issues that were covered with the Selectmen on July 15 in their meeting with the members of the Commission. He stated that the Board of Selectmen stated that the meeting with the Conservation Commission was the best one that has been held with Town Commissions so far. On Sept. 16 the Commission will meet with the Planning Board and Selectmen regarding restricting use of open spaces as wetlands. A Committee has been formed to develop a list of all Chapter 61 and 61A properties and how far they are in the ten year program.

Dr. Logan asked if when a property is being considered for purchase who decides if it will be developed or not.

Ms. Torkelsen stated that the decision as to what the Town does with the property ultimately rests with the Town Meeting.

Reports - Suggestions from George Charter

After meeting with George Charter on July 22, Mr. Halley reported that Mr. Charter has decided to not continue as an Associate Member due to family obligations. Mr. Charter suggested that the Commission establish an open forum at every meeting. Also that the Commission and the Administrator become more forceful in dealing with developers. Ms. Place suggested that the Commission send him a letter thanking him for his suggestions and for the time he has spent with the Commission. She also stated that the idea of an open forum at the beginning of each meeting for 15 minutes should be considered.

10:19 Correspondences - Job Description

Mr. Young asked Mr. Halley if 50% was accurate for the amount of time spent working on the land.

Mr. Halley stated that it was.

Mr. Graesser stated that as a question of policy, under Guidelines, "Unusual situations are referred to supervisor" should read "....to supervisor and Conservation Commission". He asked if Mr. Halley could bring the Director of Municipal Properties job description to the next meeting to clarify that job and its controls. He stated that the Director of Municipal Properties should not be setting guidelines for the Conservation Administrator.

Mr. Halley stated that he would bring the job description but the ultimate control of the Conservation Administrator and the Commission itself is the Town Manager. The Town Manager can assign an employee to a task outside of their department if so desired or necessary.

Correspondences - Wetlands Program Policy 86-1 - D.E.Q.E., Appointment of Regional Director - D.E.Q.E.

The Commission will review the new policy and were enthusiastic about a new director.

10:35 Expenses

For Approval: Murphy & Snyder - stationery - 84.50
Resource Education Institute -175.00
(seminar fee)

For Consent: Pitney Bowes - 1/8 share quarterly meter rental - 12.09
Doug Halley - mileage 14.00

Ms. Torkelsen made a motion to accept all expenses as stated. Mr. Young seconded the motion. The motion passed unanimously.

10:40 Mr. Young made a motion to enter Executive Session regarding the pending offer to the Town.

Ms. Torkelsen seconded the motion.

The motion passed unanimously.

11:25 Returning from Executive Session, the final item on the agenda was meetings. They are as follows: August 13 - Bylaw Review (Cancelled), August 18 - Special Town Meeting (Cancelled), August 20 - Regular Meeting (W.R. Grace hearing is on the agenda), August 26 - Groundwater Protection meeting with Selectmen.

11:35 Meeting adjourned.

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